

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**CELLULAR COMMUNICATIONS
EQUIPMENT LLC,**

Plaintiff,

v.

HTC CORPORATION, ET AL.,

Defendants.

Civil Action No. 6:16-cv-475

JURY TRIAL DEMANDED

**CELLULAR COMMUNICATIONS
EQUIPMENT LLC,**

Plaintiff,

v.

ZTE CORPORATION, ET AL.,

Defendants.

Civil Action No. 6:16-cv-476

JURY TRIAL DEMANDED

**JOINT MOTION TO SEVER AND CONSOLIDATE CLAIMS, DEFENSES AND
COUNTERCLAIMS REGARDING U.S. PATENT NO. 7,941,174**

Plaintiff Cellular Communications Equipment LLC (“CCE”) and Defendants HTC Corporation and HTC America Inc. (together, “HTC”) and ZTE (USA), Inc. (“ZTE”) move jointly to sever claims, defenses and counterclaims pertaining to U.S. Patent No. 7,941,174 (“the ‘174 patent”) from the above-captioned cases and consolidate those claims, defenses and counterclaims into Civil Action Nos. 6:16-cv-363 and 6:16-cv-375 (the “363/375 Consolidated Actions”).

This motion is made in the interest of judicial and party efficiency. There are four patents at issue above-captioned cases. Three of the patents—namely, U.S. Patent No. 8,055,820

(“the ‘820 patent”), U.S. Patent No. 8,385,966 (“the ‘966 patent”), and U.S. Patent No. 9,037,129 (“the ‘129 patent”)—relate to LTE technology. The ‘174 patent does not relate to LTE technology. In addition, the ‘174 patent was the subject of an *Inter Partes* Review brought in July 2014 by HTC and others (Case IPR2014-01134). The PTAB issued its Final Written Decision on January 6, 2016 upholding the patentability of all claims. HTC appealed (Case 2016-1880). The appeal has been argued to the Federal Circuit, and the parties await the Federal Circuit’s decision.

Consolidating the claims, defenses and counterclaims pertaining to the ‘174 patent into the 363/375 Consolidated Actions will add a second, non-LTE patent to those cases and will allow additional time for the Federal Circuit to rule. Should the Federal Circuit affirm the PTAB decision, the 363/375 Consolidated Actions will involve two patents that have been the subject of full PTAB proceedings and Federal Circuit appeals. If the Federal Circuit reverses the PTAB decision, then the ‘174 patent likely drops out of the district court litigation without the Court or the parties having to expend time and resources addressing the expert objections and/or preparing and serving expert reports.

For the forgoing reasons, the parties submit that good cause exists for severing claims, defenses and counterclaims pertaining to the ‘174 patent from the above-captioned cases and consolidating those claims, defenses and counterclaims into the 363/375 Consolidated Actions. A Proposed Order is submitted with this joint motion for the Court’s consideration and entry.

Dated: October 27, 2017

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

In accordance with Local Rule CV-7(h), the undersigned certifies that CCE and the Carrier Defendants are in agreement as to the relief sought and, therefore, jointly bring this motion. The undersigned also certifies that Defendants HTC and ZTE are unopposed.

/s/ Edward R. Nelson III

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served on all parties of record on October 27, 2017 via the Court's CM/ECF system.

/s/ Edward R. Nelson III